



Town of Southern Shores

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SOUTHERN SHORES TOWN COUNCIL TOWN OF SOUTHERN SHORES, NORTH CAROLINA

JUNE 24, 2005

9:00 A.M.-PITTS CENTER

MINUTES

The Southern Shores Town Council met on June 24, 2005, at the Pitts Center.

The following members were present: Mayor Hal Denny, Council Members: Jodi Hess, Dan Shields, David Sanders, and Brian McDonald

Also present were: Carl Classen, Town Manager and Carrie Gordin, Town Clerk,

OPENING

Mayor Denny called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance. He held a moment of silence in remembrance of long-time resident Frank Adams.

APPROVAL OF AGENDA

Council Member Hess moved to approve the agenda as presented. Council Member Shields seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

PUBLIC COMMENT

Don Smith, 189 Wax Myrtle Trail, appealed to the Council not to raise taxes when considering the budget. He asked that Council look at the budget to make sure the budget numbers are right and not raise taxes.

Jane Smallwood, 8 Purple Martin Lane, stated that tax base is rising and Council should be able to keep taxes at the tax neutral rate.

Bill Storey, 362 Sea Oats Trail, presented an editorial congratulated the Council on what they are doing and he thinks "We have one damn good town".

Don Hammett, 148 Beech Tree Trail, stated that Council should set the taxes what they ought to be, not try to recover the reserves in one year, and be the Town having the lowest tax rate.

Ed Cowell, 134 Beech Tree Trail, stated that due to projected cost for the Beech Tree Trail Road Project it has been put off but he would like Council to consider fixing the "pot holes."

RECOGNITION OF EMPLOYEES –Length of Service

Mayor Denny stated that the Town is fortunate to have on our Town staff capable and dedicated people. He presented a certificate to Pat Forrester-Permit Officer for 4 years of service and to Police Chief Pledger for 5 years of service. He also recognized Police Officer Gardner and Police Officer Lobdell each for one year of service.

He announced Bob Harvey as the new SSVFD Chief and he thanked Chief David Bakken for his dedication as Chief for five years.

REPORTS

Planning Board

Jim Groff, Chairman, stated that upon Council's charge the Planning Board held a meeting on June 10, 2005, regarding Planned Unit Developments. He stated that continued discussion would be held but from that meeting staff will need to review all the existing ordinances dealing with land uses for uniformity. A written recap of the meeting will be provided for the July 5 Council meeting. Other items before the Planning Board on June 24:

- Review of an amended site plan for The Cove 36-unit multi-family housing development (condominiums) proposed adjacent to Southern Shores Landing. Chairman Gross stated that there is a disputed piece of property (recreation use area) between the two parties and the Board is awaiting a response.
- The Planning Board recommends for Council approval an amended site plan (LDA2005-05-01) for Sandy Ridge Center that moves the access 50 feet to the west to allow a common access with Goodwill that will also serve property owned by Southern Shores Realty.
- The Planning Board recommends for Council approval a recombination plat application (LDA2005-05-02) from Southern Shores Realty that would allow for the change in the 50 foot common access. This new plat would eliminate all the existing lots and private streets.
- The Planning Board recommends for Council approval an amended site plan (LDA2005-06-01) from Duck Woods Country Club asking for temporary parking at the old tennis courts until December 30, 2005.
- The Planning Board recommends that the Town Council not amend the Home Occupation language in the Zoning Ordinance and to enforce the law where there is a violation.
- Reviewed several other zoning issues that need to be further reviewed by the Planning Board.

Mid-Currituck Sound Bridge Campaign Update

Geri Sullivan reported on the Mid-Currituck Bridge campaign. She reported that Toll Authority Bill, before the legislators in Raleigh, specifically lists the bridge. She also reported that the coalition supporting federal funding for a grant for study a private-public toll bridge has been well received in Senator Dole and Burr's offices as well as the Chairman of the Senate Environment and Public Works Committee.

Ms. Sullivan stated the contract for the lobbyist expired June 20, 2005 and the committee is asking Council to approve an extension of its participation for an additional two months at a cost of \$1,000 a month. She stated that the partners agree to extend the contract on a month-to-month basis through August 2005 unless one of two things occurs prior to August 20: 1) the project is

cut from the bill; or, 2) the federal Highway bill is passed, including the Mid-Currituck Sounds Bridge project.

Mayor Denny moved to extend the contract for the additional two months as requested not to exceed \$1,000 a month for a total of \$2,000. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Mayor Denny thanked all those involved for volunteering their time on this issue.

OLD BUSINESS

Zoning Ordinance 2005-05-02 Screening Above Ground Appurtenances Relating to Natural Gas Facilities

After discussion, Council Member McDonald moved to adopt Ordinance 2005-05-02 as presented. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Clerk's Note: A copy of approved Ordinance 2005-05-02 is attached hereto as Exhibit A and made part of these minutes.

Ordinance 2005-04-05-Natural Gas Franchise

Mayor Denny stated that State law requires passage of franchise ordinance twice and that Town Council approved Ordinance 2005-05-02 the first time on April 19. Mayor Denny moved to approved Ordinance 2005-04-05 granting a Natural Gas Franchise to the Eastern North Carolina Natural Gas Company. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Clerk's Note: A copy of approved Ordinance 2005-04-05 is attached hereto as Exhibit B and made part of these minutes.

Perpetual Care Trust Resolution and Agreement

Mayor Denny introduced Peggy Birkemeier, Northeastern Regional Associate, of the North Carolina Community Foundation.

Mrs. Birkemeier explained the benefits of the Foundation and provided information regarding the Kern P. Pitts Endowment Fund that is managed by the Foundation. She stated that the Southern Shores Civic Association has received a monetary gift from that Fund. She stated that setting up a perpetual care trust for the Town's cemetery would be prudent. She stated that the funds serve a public purpose and that the Foundation accepts individual donations.

Cormekki Whitley, Donor and Affiliate Finance Manager presented the Foundation's budget.

Mayor Denny moved to authorize the Town Manager to execute the presented resolution and agreement as presented. Council Member Hess seconded.

Council Member McDonald suggested that before a decision is made that Council hear a presentation from the Outer Banks Community Foundation.

After discussion, Mayor Denny Council withdrew his motion and Council Member Hess withdrew her second. Hearing no objection, Mayor Denny directed the Town Manager to contact the Outer Banks Community Foundation for a presentation at the July 5 Council meeting.

Council Member McDonald moved to establish a designated reserve within the General Fund in the amount of \$5,000 for the Cemetery Perpetual Care Fund. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

2005 Spring Road Improvements Project-Beech Tree Trail/E. Holly

Mayor Denny stated that the Beech Tree/E. Holly Trail project has been scaled back and that a meeting has been set to meet with Barnhill Contracting pending further negotiations. He stated that the part of the project relating to the cul-de-sac on E. Holly Trail will move ahead.

Mayor Denny declared a short recess at 10:15 a.m. and reconvened at 10:30 a.m.

Ordinance 2005-06-02 – Amending the FY2004-05 Budget

Mr. Classen reviewed the budget ordinance amendment and stated that upon advice from the Town's new auditor, Pickrell & McGinnis, he has incorporated their recommendations. Two changes he addressed is to not use a separate vehicle replacement fund but to include it in the Capital Improvement Plan (CIP) and to not include the fire truck as an expense in the CIP because it would establish a long term trust and that the \$50,000 be placed in a designated fund.

Council Member Shields moved to approve Ordinance 2005-06-02 Amending the FY 2004-05 Budget as presented. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Clerk's Note: A copy of approved Ordinance 2005-06-02 is attached hereto as Exhibit C and made part of these minutes.

Ordinance 2005-06-01- Establishing a Budget and Tax Rate for FY 2005-2006

Mayor Denny stated that he was not present at the June 6 public hearing regarding the FY 2005-06 budget and he asked that Council address some of the public comments made at that public hearing.

Council Member Hess, who presided at the June 6 public hearing, reviewed comments made. She stated that budgeting for the roads is the responsibility of the Town not NCDOT. She stated that the beach crossovers belong to the SSCA not the Town. She stated that there are two items that keep coming up and they are the purchase of the five Durangos in FY2003-04 and the purchase of ten shot guns for the Police Department in FY2004-05.

Regarding the purchase of the Durangos, Mr. Classen explained that after Hurricane Isabel it was decided that at least half the vehicles in the Police Department should be four-wheel drive vehicles so as to help during emergencies and so as to conduct regular patrols on the beach. He stated that there the FY2003-04 budget called for purchase of three vehicle replacements. He stated that, since these vehicles were purchased so late in the fiscal year, he learned that the Town could save 5% or more if they purchased 2004 models. Knowing that the vehicle replacement schedule called for two replacement vehicles in FY2004-05, seeing that there were sufficient

funds in the Police Department Budget to cover the additional expense, and knowing that interest rates earned by the Town on idle funds were then running in the 1-2% range, he authorized the purchase of the two additional vehicles on the last day the 2004 models were available. With this purchase, half the Police Department would be four-wheel drive vehicles and there would be no need for a vehicle purchase in FY2004-5 and Mr. Classen reported that no vehicles had been purchased in the FY2004-05 fiscal year.

Chief Pledger spoke to the purchase of ten shot guns at a cost of \$10,000, including the cost of ammunition, as well as other equipment. He stated that the older shot guns, which are 10-15 years old, would be modified to be non-lethal weapons.

Discussion was held regarding the use and replacement of the patrol cars. It was stated that each officer has their own vehicle, which they take home, as the vehicle serves as their work office and as all Southern Shores Police Officers are required to consider themselves available for call-back unless they go on vacation and leave their police vehicle at Town Hall. Chief Pledger also explained that police vehicles are equipped and used differently than a personal vehicle. Mayor Denny stated that the vehicle replacement schedule for FY 2005-06 is attached to the budget and calls for replacement of three police patrol cars, the older Crown Victorias.

Mr. Classen provided a brief FY 2005-06 Budget presentation. He stated that he initially proposed a budget with a 9.5 cent tax rate but that Council tasked him to submit a FY2005-06 budget ordinance with an 8.5 cent tax rate, which is what Ordinance 2005-06-01 reflects. He explained how the revenue neutral rate affects individual properties inconsistently and that in many individual cases the proposed tax rate reflects a tax decrease. He stated that this budget is a maintenance budget, striving to meet current needs and expectations.

Council Member McDonald discussed ways to change the budget to meet the community-wide revenue neutral rate of 7.5 cents. He asked if certain projects in the Capital Improvement Plan could be deferred, such as the South Dogwood Trail/US158 project (\$175,000) due to the re-construction of Kitty Hawk Elementary School. He stated that all projects on the CIP need to be done but they could be done over a longer period of time. He recommended that a long-range committee be appointed to review the CIP. The committee would propose a plan where money could be set aside over a period of years to complete projects and the tax payers would be able to see what tax rate is needed.

Mayor Denny stated this is the first CIP proposed for the Town and he is looking forward to the plan improving through the years. He does not agree with Council Member McDonald on the South Dogwood Trail project since it must be started to be completed when the Kitty Hawk Elementary School renovations are completed in July 2006. That means the project must be started in the winter or spring of 2006, which is in FY2005-06. If the South Dogwood Trail project does not get done in the next fiscal year, then he would like to reach into the next fiscal year and move forward with other high priority projects. He stated that deferring projects over the years is why the Town streets are in such poor condition and he does not want to continue that practice.

Council Member Hess stated that she is concerned about cutting the South Dogwood Trail project. She stated she is concerned about safety there and that traffic is already heavy at that intersection due to Kitty Hawk Elementary School and with Southern Shores Landing. Plus she expressed concern about the proposed dentist office on traffic at the intersection as well as the school. She also stated concern that the Town may lose leverage with NCDOT and the County on funding for that project.

Council Member Sanders questioned whether the South Dogwood Trail project would be completed in time for the school opening.

Mr. Classen stated that Council approval of the school site plan hinged on this road project due to stormwater management and entrance ways at the site and may not get started until the spring of 2006 but needs to be completed by August before school starts.

Council Member Hess stated that the canal dredging project has a heavy impact on this budget and the projected CIP for 2007-2010 budget years are incomplete. She stated that the SSCA had not raised fees for a long time but now infrastructure needs to be maintained and there may be a lack of funds.

Council Member McDonald stated that he feels the CIP is too ambitious. He submitted copies of the Long Range Planning Committee survey results regarding two questions: 1) The Town should fix the roads as funds are available from the current tax rate? 74% agree, 8% disagree; 2) The Town should raise the tax rate to fix the roads at a faster pace? 8% agree and 75% disagree. People only look at their road and Council is looking at all the roads.

Mayor Denny stated that Council is elected to do what's right for the Town; to ignore the infrastructure is not doing what Council is elected to do, it is a tough decision. He stated that he has been on Council for six years and that in his first year there was a huge increase in the general fund balance due to a conservative estimate of revenues and overestimate of expenses. He stated that he likes to give the money back to the taxpayer by way of a tax cut or by capital improvements but not by increasing the general fund operating cost. He supports this budget with an 8.5 cent tax rate and the need to use funds from the operating fund balance for the next year.

Council Member Sanders stated that he would like to see the proposed budget tax rate dropped by one half cent. He feels Council owes the citizens to get the tax rate as close to the community revenue neutral tax rate as possible and not endanger any projects and use additional funds from the general fund reserve to balance the budget; then follow up next year on what is needed and adjust the tax rate accordingly.

Council Member Sanders and McDonald expressed concern that the CIP may not be able to be accomplished during this fiscal year and it would not be necessary to hold that money from the taxpayers.

Council Member McDonald would support a 10-year CIP showing what projects, cost, and time frame would be applicable and the increase in the tax rate as needed.

Mr. Classen noted several typographical errors and asked Council to include the corrections as noted.

Council Member Hess moved to adopt the Ordinance 2005-06-01 -Adopting the FY2005-06 Budget and Adopting the Tax Rate, as corrected. Council Member Shields seconded. The motion passed with Mayor Denny, Council Members Hess and Shields voting aye; Council Members Sanders and McDonald voting no; and no Council Member absent.

Clerk's Note: A copy of approved Ordinance 2005-06-01 is attached hereto as Exhibit D and made part of these minutes.

NEW BUSINESS

NC League of Municipalities Interlocal Agreement

Mr. Classen stated that this is the agreement from the North Carolina League of Municipalities allowing the Town to participate in the various insurance pools operated by the League. He recommends Council's approval of the agreement for a Group Self-Insurance Pool for Property and Liability Risk Sharing.

Mayor Denny moved that Council direct the Mayor to execute this governing body resolution as presented by the Town Manager. Council Member Shields seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Clerk's Note: A copy of approved Resolution 2005-06-02 is attached hereto as Exhibit E and made part of these minutes.

Emergency Debris Management Contract

Mr. Classen provided a list of companies that submitted a proposal in response to Nags Heads' debris management contract request for proposals (RFP). Southern Shores and Duck have the option to participate in this contract, which is for one year from July 1, 2005 through June 30, 2006. This allows Southern Shores to participate in the contract and be in compliance with federal (FEMA) regulations related to securing a clean-up contract in the event of a major storm and subsequent FEMA reimbursement. This process is also known as "pre-positioning" a contract. There is no cost to the Town if a contract is not utilized.

One outstanding issue is confirmation that Southern Shores will be able to utilize the temporary debris removal site (TDRS) that Dare County has already secured in lower Currituck County. The Town has received oral assurance that the site will be available for Town use, but there has been no written confirmation. This could lower the price to Southern Shores in a number of the contracts as the RFP is based upon a haul to Manteo and/or Stumpy Point.

Council Member McDonald moved to approve the Bid Tab for an Emergency Debris Management Contract as presented. Mayor Denny seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

OTHER ITEMS

Council Member's Items

Council Member McDonald followed up on his comments during the budget approval regarding a CIP committee to define and submit a 5 or 10 year plan. Mr. Classen suggested that staff would submit a proposal for the structure of the committee of 5-6 members and a proposal to retain a consultant for Council's review at the July 19 Council meeting. Hearing no objection, Mayor Denny so ordered.

Council Member Sanders stated from his personal experience due to emergency surgery at the Outer Banks Hospital that he found all the treatment given by the Hospital staff to be highly capable and he thanked those people who were involved for bringing the hospital to this area.

Mayor's Items

Mayor Denny stated that he attended a Dare County Emergency Control Group meeting in preparation for the upcoming hurricane season and a written agreement will be forth coming regarding the Town's use of the debris site in Currituck County. He stated that the Dare County Commissioner's passed an emergency ordinance that usurped the Town's authority to act in an emergency. State law provides that the county acts as a coordinator not as a controller, which the mayors objected to. The ordinance has no effect.

Mayor Denny announced that he is not planning to run for re-election but he could change his mind, and if he does it is not illegal, immoral, or unethical to do so.

Town Manager

Mr. Classen stated that the Town tax records show a few property owners are delinquent in personal property that is under five dollars and that he will need to bring the correct procedure before Council to dismiss those taxes in that it will cost more for notification than the amount owed to the Town.

Council Member Hess asked if the Town Manager would discuss with the other managers the issue of the County's tax collection fee to consider using a flat rate instead of the percentage formula currently being used.

Mr. Classen reported that the Town has ordered sport shirts that can be purchased for \$25 (\$27.50 for plus sizing) from Town Hall. Staff is looking at offering front licenses with the updated emblem, license plate frames, mugs and a 2005 Christmas ornament in the coming months.

Mr. Classen reported that staff has almost completed entering all the Town parking sticker information. 2006 Parking stickers are already being handed out as staff ran out of 2005 stickers. Recommendations will be forthcoming later this fall for changes in the parking sticker changes prior to issuing 2007 stickers (starting in July, 2006).

Mr. Classen reported that Sprint has been unable to restore wireless service to an acceptable level and this has caused lost productivity and inadequate service response in at least one minor emergency (whale stranding on June 16). Since mid-May, Sprint has been advised that service would need to be fully restored by June 30, the beginning of the hurricane season and that need was re-emphasized due to the June 16 whale stranding. If Sprint has not fully restored service by June 30, he will declare that the existing Sprint contract is void and will seek another carrier who can provide the needed service during this hurricane season.

Mr. Classen provided information regarding the Southern Shores Canal Dredging Project:

The amount of spoils is calculated by Environmental Professionals (EPI) at 137,000 cubic yards. As the proposed Hillcrest spoils site could hold 53,000 cubic yards, this would require 3 dredging seasons, which is much longer than was previously represented to the Hillcrest property owners.

Given this and the desire from Duck Woods Country Club (DWCC) for dredge spoils he is pursuing dredging the channel and northern canals using the Hillcrest spoils site (if the property owners agree) and then using a spoils site on DWCC property for the remaining canals over 1-2 dredging cycles. The DWCC spoils site will be very hard to get permitted and may require extraordinary measures for mitigating wetlands use. This revised strategy has been outlined to the Corps and to the State (DENR staff), which is partially funding the project. EPI has said that this is probably the largest (except for harbor dredging) most complex dredging project ever undertaken in North Carolina and this was generally confirmed by NCDENR staff. He stated that 486 notices to adjacent riparian owners need to be sent. This project is very time consuming and he recommends that the Town hire a part time, temporary project manager in-house at a Grade 16 equivalent (Town Clerk, Code Enforcement Officer) for an average of 19 hours per week through June 30, 2006. The starting hourly rate would be \$17.85 per hour, which includes payroll taxes but no benefits, for an estimated annual cost of \$17,636. The position is accountable to the Town Manager, to oversee that this project moves forward and is completed in a timely manner. An amendment to the FY2005-06 budget would be needed.

Mayor Denny stated that the previous spoils calculation was 85,000 cubic yards and now the calculation is 137,000 cubic yards. He would like to see EPI's calculation of the spoils dredged at five feet.

Mr. Classen reported that the Trash Can Roll Back: The "Roll Out/Roll In - 24" public education campaign continues and is apparently effective. Various staff (Merrie, Karen, Carl, Glenn, Chad, and others) has spent part of each Wednesday rolling back trash cans and attached neon yellow inventory tags to warn people that their cans are in violation of the law by being left out more than 24 hours after collection. The tag is attached to each can and then rolled back off the right-of-way into the middle of the driveway. The "Roll Out/Roll In - 24" public education campaign has been effective. Since early June when the campaign began and included the neon yellow warning tags, the number of properties where cans have been left out more than 24 hours after collection has dropped by 2/3rds. Staff will continue this public education for a short while longer and then the Code Enforcement staff will begin issuing citations.

Mr. Classen stated that the Planning Board is not recommending any changes in the home occupation regulations contained in the Zoning Ordinance. Currently staff is operating at full capacity with the current workload and is having trouble responding to just the normal level of code enforcement requests. If the Town Council wants an increased level of code enforcement on home occupations (and trash cans - following a two month-long public education effort), additional temporary help is needed. The hourly rate for a part-time Permit Officer is \$15.45 per hour, which includes wages and payroll taxes (no benefits).

Council Member Sanders objects to the hiring of an employee as an enforcement officer for trash/recycle enforcement when that person could roll the cans back. Council Member McDonald agrees with Council Member Sanders and the employee that is to be hired in the spring to repair the cans could roll the cans back. He also supports that there should be a fee for repairing cans.

Council Member Shields stated that a decision needs to be made regarding the Planning Board recommendation whether or not to amend the Zoning Ordinance relating to home occupations. This will help staff know whether to enforce the existing law or not. Mr. Classen stated that staff is preparing an amendment at the request of the Planning Board chairman clarifying that people who drive company cars would not be in violation of the current Zoning Ordinance. He further stated that the Town is prepared to enforce the law but as we can get to it or we need additional staff.

Council Member Hess asked if property owners are aware of these regulations. Mr. Classen stated that information on this issue has been addressed on the Broadcast News and that the Code Enforcement Department is sending a letter to those property owners known to have a home occupation business. Continued discussion on this matter will include a permitting process for these businesses.

Mr. Classen stated that the Town's Zoning and Subdivision Ordinance needs updating. The cost of this project will likely be \$15,000 - \$25,000 as the ordinances have not been updated in over a quarter century. He asked that Council to direct the Town Manager to prepare and circulate an RFP for a planning consultant to work with a special committee of the Town Council (1) and Planning Board (2) to update the Zoning and Subdivision Ordinances and to set an initial goal of receiving the planning consultant draft by December 31, receiving the Committee report by February 28, and completing the overall project by June 30. He stated this would require an amendment to the FY2005-06 budget.

Mr. Classen reported on the Parking Ticket/Code Violations. An updated Parking Ticket and Code Citation tracking system are in place.

Mr. Classen reported that Barnhill did not complete the Spindrift Multi-Use Path project on time and is being assessed \$50 per day (except Sundays) in liquidated damages. He has documented cracks, unprofessional workmanship, and other problems in the concrete work done and he has transmitted these items to Barnhill for resolution.

Mr. Classen reported that he has advised Quible, who prepared the storm drainage plan for Duck Woods Country Club (DWCC) and who serves as the Town Engineer, that storm drain swales along South Dogwood at the Country Club buildings appear so severe and so deep as to be cause for potential accidents. The engineer has been advised that an immediate solution is needed and that no further storm water facilities serving private facilities should be placed in the Town rights-of-way. The Town did approve these plans, but relied upon the work of the Town Engineer in developing the plans expecting that they would be workable for both the Town and DWCC.

Discussion was held regarding who other than property owners with a Town permit would be allowed to park in the new Town parking lot. It was stated that a Town permit is required.

PUBLIC COMMENT

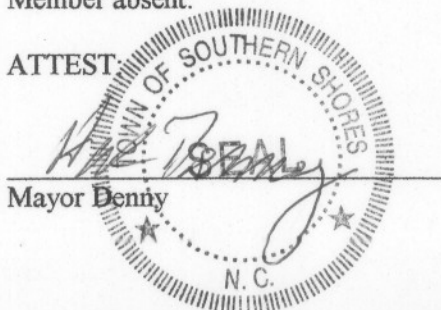
Mayor Denny called for any further comment from the public. Hearing none, he continued with the agenda.

ADJOURNMENT

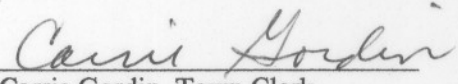
Hearing no further business Council Member Hess moved to adjourn the meeting at 12:50 p.m. Council Member Shields second. Motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

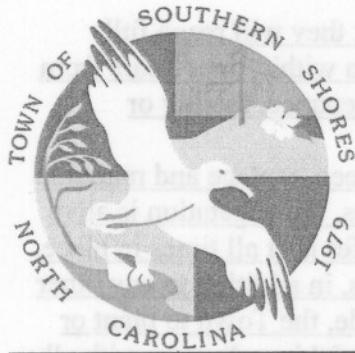
ATTEST:

Mayor Denny



Respectfully submitted:


Carrie Gordin, Town Clerk



Town of Southern Shores

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Exhibit A

Ordinance No. 2005-05-02

**AN ORDINANCE OF THE
SOUTHERN SHORES TOWN COUNCIL RELATING TO
AMENDING THE ZONING ORDINANCE
RELATING TO SCREENING NATURAL GAS FACILITIES**

Dare County, North Carolina

Be It Ordained by the Southern Shores Town Council as follows:

Article I: Purpose

The purpose of this Ordinance is to amend the Zoning Ordinance of Southern Shores, Dare County, North Carolina, which was originally adopted by the Town Council on July 7, 1981 and subsequently amended.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Zoning Ordinance language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Zoning Ordinance shall be shown in italics (*italics*).

Article III. Create Section 6.12 Southern Shores Zoning Ordinance – Screening Natural Gas Facilities

Section 6.12. of the Southern Shores Zoning Ordinance is hereby created to read as follows:

Any above ground appurtenances, facilities or structures, (except buildings which are occupied and governed by other provisions of the Southern Shores Zoning Ordinance), constructed as a part of a natural gas utilities system within the Town for the production, transmission, distribution and sale of gas, shall be screened with vegetative buffers as follows:

- A. All appurtenances, facilities or structures shall not be visible from ground level to a point eight feet above ground level.
- B. Buffers shall consist of trees or shrubs as described in Section 6.11.C.1.

Ord. No. 2005-05-bb– Screening Gas Facilities

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- C. Plants shall be of a size and planted at such intervals that they will reach full maturity and/or provide the full screening required herein within three years from the date of the completion of construction of such appurtenance, facility or structure.
- D. The franchisee for such natural gas utility system shall keep, replace and maintain the vegetation buffer required herein such that at all times, the vegetation is alive and, after the first three years, that the full eight foot buffer is at all times in place.
- E. Failure to comply with the terms of this ordinance allows, in addition to any other remedies available under the provisions of the Town Code, the Town to plant or replace such vegetative buffer to comply with the terms of this ordinance with all costs thereof being charged to the franchise.

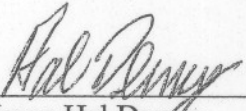
Article IV. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

Article V: Effective Date

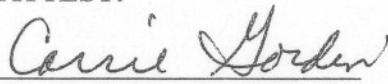
This Ordinance is effective immediately upon adoption.

Adopted this the 24th day of June 2005.



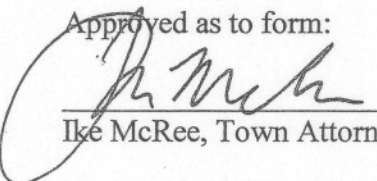
Mayor Hal Denny

ATTEST:



Carrie Gordin, Town Clerk

Approved as to form:

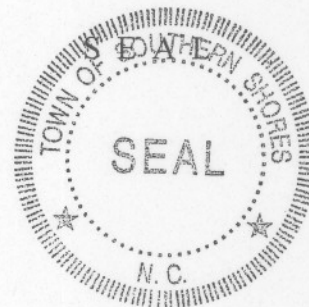


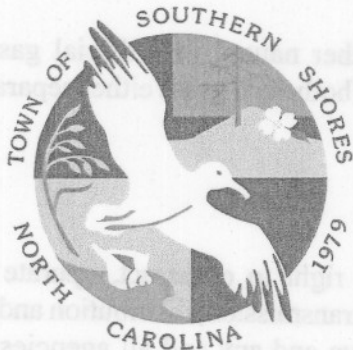
Ike McRee, Town Attorney

Date Introduced: May 17, 2005

Dates of Publication: Coastland Times: May 19 and 26, 2005

Date of Public Hearing: June 7, 2005





Town of Southern Shores

6 Skyline Road, Southern Shores, North Carolina 27949

Phone 252-261-2394 | Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Exhibit B

Ordinance No. 2005-04-05

Version 04-19-2005

AN ORDINANCE OF THE SOUTHERN SHORES TOWN COUNCIL GRANTING A FRANCHISE TO EASTERN NORTH CAROLINA NATURAL GAS COMPANY

BE IT ORDAINED BY THE SOUTHERN SHORES TOWN COUNCIL:

I. DEFINITIONS

1.01 As used in this Ordinance, the following terms, words and phrases shall have the meanings respectively ascribed to them in this section:

"Company" shall mean Eastern North Carolina Natural Gas Company, a corporation organized under the laws of the State of North Carolina and authorized to do business in the State of North Carolina and any successor in interest to Eastern North Carolina Natural Gas Company under this franchise Ordinance.

"Town" or "Town of Southern Shores" shall mean:

The Town of Southern Shores, a municipal corporation located in Dare County, North Carolina,

The area now or hereafter within the territorial Town limits of the Town of Southern Shores, or

The Town Council or any officer or agent duly authorized and acting on behalf of the Town as a municipal corporation, as indicated by the context by which the term is used;

"Town Council" shall mean the governing body of the Town of Southern Shores;

"Gas" when used as an unqualified term shall mean either natural or artificial gas, by whatever process or processes derived or manufactured, or both such gases either separately or a mixture of them;

II. FRANCHISE GRANTED

2.01 The Company is hereby granted a nonexclusive right to construct, operate and maintain a gas utilities system within the Town for the production, transmission, distribution and sale for gas to consumers and users within the Town and to the Town and any and all agencies and departments thereof.

2.02 To the extent that the Town may legally do so, the Company is hereby granted the right, authority and privilege, after written notice delivered to the Town, to construct and install, operate, maintain, lay or relay, renew, replace and repair, (except no advance notice shall be required for emergency repairs) gas pipes, mains, pipelines, conduits, regulators, connections and services thereto (hereinafter "Facilities"), in, through, across, along and under streets, avenues, roads, public alleys, lanes, and such other Town properties and facilities as may be approved by the Town Manager (hereinafter "Public Properties") in the Town for the production, pumping, handling, transmission, distribution and sale of gas for any and all purposes, subject to the terms and conditions hereinafter set forth in this Ordinance. Such activities shall be conducted so as to minimize to the greatest extent practicable (within reasonable economic costs) inconvenience to the public, and damage to the area disturbed. All work shall be done with full consideration of the facilities and rights of others. All Company activities shall be accomplished in accordance with the rules, regulations and standards of the North Carolina Utilities Commission and the Town of Southern Shores.

2.03 Whenever the Company shall cause any opening, excavation or alteration to be made in any Public Properties within the Town in the construction, operation or maintenance of any of its Facilities owned or used by it, the Company shall repair and restore expeditiously such portions of such Public Properties to the same condition in which it found them as nearly as practicable. Additionally, if the Company shall fail following completion of repairs to restore the area to its approximate former condition within a reasonable time, and a written notice is provided by the Town to the Company, the Town may proceed after five (5) calendar days notice by mail or personally delivered to Company to restore such Public Properties as nearly as practicable to their original condition, and the Town shall submit a statement of the costs for this restoration to the Company. The Company agrees to pay the Town for these costs within thirty (30) days. Interest at nine percent (9%) per annum shall accrue on these costs beginning on the 31st day following the date that the Town mails notice of such costs or the date that the Town hand delivers such notice to Company.

Conflicts in elevations of Company piping with Town or other utilities that require adjustment of Town or other utilities shall be at Company's expense, and any damage to all such utilities while Company is readjusting Company facilities shall be the responsibility of Company.

In the case of temporary repairs, any opening, excavation or alteration in any Public Properties shall be backfilled immediately after the temporary repairs are finished and the excavated area shall be kept in a safe condition by the Company until the permanent repair is made. The permanent repair shall be made as expeditiously as possible.

Except in emergency situations, the Company shall not excavate in any Public Properties of the Town until it shall obtain written approval from the Town, which shall state in particular the location of proposed excavation and the approximate time to be required to complete the work at the excavated area. The Town will act upon such requests within a reasonable time and shall not be unreasonable in refusing to grant approval of a Company request. In no event though shall the Town fail to cooperate with the Company to reach agreement as to a commercially feasible method for the Company to comply with its legal obligations in the provision of natural gas service. All excavations, back-filling and paving shall be subject to inspection by the Town and shall be done according to the standard practice of the Town in the installment of its water and sewer installations.

In all cases where any Public Properties shall be excavated, disturbed or altered by the Company, it shall take all precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals and other devices necessary or proper to give adequate notice or warning to the public of the existence of all actual conditions and hazards present. Company shall undertake every reasonable option available to prevent creating a hardship to adjoining properties, including, without limitation, businesses and residences. Company agrees to abide by all present and future laws, regulations and ordinances regulating utility cuts in Public Properties, but Town shall not adopt any ordinance, rule or regulation which shall have the effect of modifying, amending, altering, or voiding all or any part of this Franchise.

Whenever the Town shall grade or re-grade any Public Properties in, along, under or across which the Company shall have installed any of its Facilities, and such grading or re-grading necessitates removal or relocation of such Facilities for Company to remain in compliance with federal or state law or regulation applicable to such Facilities, it shall be the duty of the Company, at the request of the Town, at its own cost and expense, to promptly change said Facilities so as to conform to the new grade which is then being or has been established.

If the Town decides to pave or repave a Public Property, it shall give sixty (60) days prior notice to the Company of the intention to pave or repave such street. When such notice is given, the Company shall perform such work as the Company deems necessary for the extension of new Facilities or the repair or relocation of existing Facilities within Public Property prior to the time the Town begins paving or repaving of the Public Property. With prior written approval by the Town,

the Company may perform such work as the Company deems necessary for the extension of new Facilities or the relocation of existing Facilities within Public Property after one year from the date that specific portion of the Public Property has been paved or repaved or if required to serve a customer that requests natural gas service and the Company can economically provide such service.

2.04 This franchise is granted for a term of thirty (30) years beginning June 24, 2005 and ending at midnight June 23, 2035. This franchise supersedes any and all former rights or franchises of the Company to operate a gas utilities system in the Town with respect to all acts and things done or admitted to be done, on or after June 24, 2005.

2.05 The Company agrees to pay an annual franchise tax equal to the amount as required by North Carolina law and which sum shall be payable in accordance with such law. The grant of this franchise shall not cause the Company to be liable for any other taxes, licenses or fees that it would not otherwise be chargeable with under State or Town law or ordinance.

2.06 The Company is hereby granted the right during the existence of this franchise to mortgage or hypothecate this franchise, together with all rights and privileges thereunder and any right or interest therein, as security for indebtedness, subject to acceptance by any legal successor in interest of the obligations, duties, liabilities, limitations and prohibitions set out herein and subject to the approval by the North Carolina Utilities Commission or other governmental agency the approval of which is required by law. The Company shall not assign or transfer its rights under this agreement, provided, however, that this provision shall not prohibit the Company from assigning its rights hereunder to the surviving corporation in any corporate reorganization in which the Company is a party.

III. TOWN TO BE FURNISHED INDEMNITY AGAINST INJURIES, DAMAGE AND NUISANCES

The Company agrees that it will at all times indemnify and save harmless the Town, its officers, employees, and servants for each and all such nuisances, damage, injury (including death) loss, cost or expense (including reasonable attorney fees), caused or occasioned or contributed to by any act or failure to act, of the Company, its officers, agents, servants and employees, in the construction, installation, repairing, maintaining, or operation of said Facilities, equipment or devices of the Company for the sale, transportation and distribution of gas in said Town, including making cuts, disturbances and excavations in the Public Properties, except such indemnity shall not apply to any such loss, cost or expense caused by the negligence of the Town; and the Company shall secure and file, if requested, with the Town certificates for liability insurance in an amount of at least one million dollars.

IV. OBLIGATION OF COMPANY TO FURNISH NATURAL GAS

4.01 Subject to the Company's determination of economic feasibility in accordance with its criteria, the Company agrees to deliver to and distribute for the use of the inhabitants, offices, businesses, commercial enterprises, churches, charities and professional establishments within the Town, during the period of this franchise, and providing there is a demand for same, natural gas in sufficient quantity to supply the demand of customers within the Town who may be served under the provisions of this franchise.

4.02 Service interruptions or impairment for reasons beyond the control of the Company shall not be a breach of this Franchise, but such interruptions or impairments shall be corrected within a reasonable time with as little interruption as possible.

V. TOWN TO BE FURNISHED ACCESS TO MAPS ON REQUEST

5.01 The Company shall from time to time, at the request of the Town, allow Town officials and/or employees to review or inspect maps of its transmission and distribution system within the Town which the Company shall maintain up to date.

VI. CONDITIONS OF REVOCATION

This Franchise may be revoked only upon failure of the Company to remedy any breach of its terms within thirty (30) days after receiving notice in writing of such breach from the Town or, if the breach cannot reasonably be cured within thirty (30) days, the Company must begin the cure within the thirty (30) day period and thereafter proceed to complete the cure with due diligence.

VII. NOTICES

All notices shall be in writing and hand delivered or mailed by registered or certified mail, return receipt requested, postage prepaid to:

Town of Southern Shores
Attention Town Manager
6 Skyline Road
Southern Shores, NC 27949

Eastern North Carolina Natural Gas
c/o Piedmont Natural Gas Company, Inc.
Attention: Senior Vice President – Utility Operations
1915 Rexford Road
Charlotte, NC 28211

or to such other addresses as may be provided in writing from time to time. Mailed notices shall be deemed received three (3) days after posting.

VIII. BINDING EFFECT

This Franchise shall bind and inure to the benefit of Eastern North Carolina Natural Gas Company and its successors and assigns and the Town of Southern Shores to the full extent allowed by applicable law.

IX. CHANGES OR AMENDMENTS

No agreement, promise, term or condition not contained herein shall have any efficacy or validity. No change or amendment shall be effective until lawfully adopted by the Town and agreed to by the Company.

X. ACCEPTANCE OF FRANCHISE

This Ordinance shall take effect from the day and date of its passage at two (2) regular meetings of the Town, but only after it has been accepted in all its terms and revisions by the Company, in writing, within sixty (60) days after its final passage. Otherwise, the same shall be null and void and of no effect.

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Adopted by the Town Council of the Town of Southern Shores at two (2) regular meetings held on April 19, 2005, and June 24, 2005.



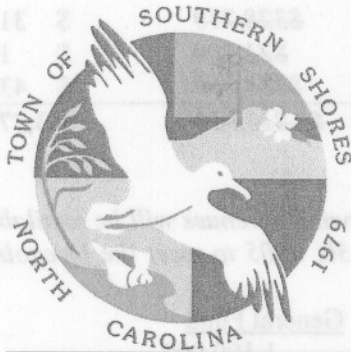
ATTEST: Carmie Gordon
Clerk

TOWN OF SOUTHERN SHORES

BY: [Signature]
Mayor

APPROVED AS TO FORM:

[Signature]
Town Attorney



Town of Southern Shores

6 Skyline Road, Southern Shores, North Carolina 27949

Phone 252-261-2394 | Fax 252-255-0876

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Exhibit C

Ordinance No. 2005-06-02

AN ORDINANCE OF THE SOUTHERN SHORES TOWN COUNCIL AMENDING THE FY2004-05 BUDGET

Dare County, North Carolina

Be It Ordained by the Southern Shores Town Council as follows:

Article I. Purpose

The purpose of this Ordinance is to amend Ordinance No. 2004-05-01 Amending the Budget and Tax Rate for FY2004-05 for Southern Shores, which was originally adopted by the Southern Shores Town Council on June 8, 2004 and amended by Ordinance 2005-03-01 on March 15, 2005.

Article II. Construction

For purposes of this Ordinance, underlined words and numbers (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Ordinance shall be shown in italics (*italics*).

Article III. Amend Section I – General Fund

Section I. of Ordinance No. 200-05-01 Amending the Budget and Tax Rate for FY2004-05 is hereby amended to read as follows:

Section I. General Fund

A. *Appropriations: The following amounts are appropriated for the operation of the Town government and its activities for the fiscal year beginning July 1, 2004 and ending June 30, 2005:*

	<u>General Fund</u>	
Administration Department	\$641,276	\$ 629,600
Police Department	\$907,109	\$ 831,908
Sanitation Department	\$464,500	\$ 410,000
Ocean Rescue	\$130,000	\$ 131,000
Fire Department	\$234,410	\$ 284,410
Public Works Department	\$562,037	\$ 724,402

Ord 2005-06-02 – Amending FY2004-05 Budget

V. 06-24-2005

Page 1 of 3

Inspections Department	\$328,710	\$ 316,650
Pitts Center	\$21,200	\$ 17,800
Non-Departmental	\$524,750	\$ 431,000
Total Appropriations:	\$3,813,992	\$ 3,776,770

B. *Estimated Revenues: It is estimated that the following revenues will be available during the fiscal year beginning July 1, 2004 and ending June 30, 2005 to meet the foregoing appropriations:*

	<u>General Fund</u>	
Property Taxes – Current Year	1,100,000	1,110,000
[Property Taxes – Operations]	[990,000]	[1,000,000]
[Property Taxes – Cap. Improvements]	[110,000]	[110,000]
Property Taxes - Prior Years	4,500	4,500
Vehicle Taxes – Current Year	45,150	49,500
Vehicle Taxes – Prior Years	2,750	3,100
Penalties and Interest	901	1,025
• Total Ad Valorem Taxes	1,153,301	1,168,125
Occupancy Tax	379,000	390,000
Local Option Sales Tax	460,000	450,466
Land Transfer Tax	268,000	415,000
Utilities Franchise Tax	62,479	109,751
• Total Other Taxes and Licenses	1,169,479	1,365,217
• Fund Balance Appropriation	634,768	311,786
• Unrestricted Intergovernmental	41,822	62,686
• Restricted Intergovernmental	227,117	431,946
• Permits and Fees	224,175	262,155
• Investment Earnings	48,000	70,000
• Other Revenues	315,330	10,500
Total Revenues:	3,813,992	3,776,770

Article IV. Amend Section I – Capital Improvement Fund

Section III. of Ordinance No. 2004-05-01 Amending the Budget and Tax Rate for FY2004-05 is hereby amended to read as follows

Section III. Capital Improvement Fund

The following amounts are appropriated within the Town of Southern Shores Capital Improvements Fund for its activities for the fiscal year beginning July 1, 2004 and ending June 30, 2005. It is estimated that the following revenues will be available during the fiscal year beginning July 1, 2004 and ending June 30, 2005 to meet the appropriations described:

Appropriations:

Capital Improvement Plan Projects	\$758,750	\$822,000
Vehicle Replacement Plan	\$	41,250
TOTAL	\$758,750	\$863,250

Revenues

Transfer - General Fund	\$195,000	\$425,000
Use of Fund Balance	\$95,000	\$438,250
TOTAL	\$290,000	\$863,250

Article V. Amend Section I – Vehicle Replacement Fund

Section IV. of Ordinance No. 2004-05-01 Amending the Budget and Tax Rate for FY2004-05 , which was created by Ordinance No. 2005-03-01, is hereby deleted.

Article VI. Create Designated Reserve – Fire Truck Replacement

The Town Manager is hereby directed to create a designated reserve for the purpose of purchasing a fire truck at a time so determined by the Town Council. The Town Manager shall place \$50,000 in this designated reserve from the Fire Department appropriations found in Section 1.A of Article III of this Ordinance.

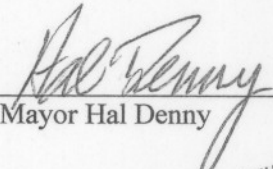
Article VII. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.


Article VIII. Effective Date

This Ordinance is effective immediately upon adoption.

Adopted this the 24th day of June 2005.

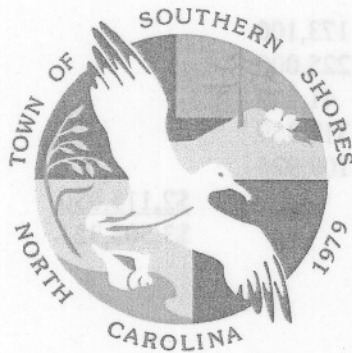

Mayor Hal Denny

ATTEST:


Carrie Gordin, Town Clerk

Date Introduced: June 24, 2005





Town of Southern Shores

6 Skyline Road, Southern Shores, North Carolina 27949

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Exhibit D

Ordinance No. 2005-06-01

An Ordinance of the Southern Shores Town Council Adopting a Budget and Tax Rate for FY 2005-2006

Be It Ordained by the Town Council of the Town of Southern Shores, North Carolina that the following be the budget for FY 2005-2006:

Section I. General Fund

A. Appropriations: The following amounts are appropriated for the operation of the Town government and its activities for the fiscal year beginning July 1, 2005 and ending June 30, 2006:

Administration Department	\$ 589,995
Code Enforcement & Inspections Department	\$ 348,950
Fire Department	\$ 288,105
Ocean Rescue Department	\$ 125,000
Pitts Center Department	\$ 20,950
Police Department	\$ 844,850
Public Works Department	\$ 447,600
Sanitation Department	\$ 435,700
Transfers to Cemetery and Capital Improvement Funds	\$ 407,177
Total General Fund Appropriations	\$3,508,327

B. Estimated Revenues: It is estimated that the following revenues will be available during the fiscal year beginning July 1, 2005 and ending June 30, 2006 to meet the foregoing appropriations:

Property Taxes – Current Year	\$1,362,778	
Vehicle Taxes – Current Year	\$ 21,864	
Property & Vehicle Taxes – Prior Years, Penalties and Interest	\$ 8,635	
Subtotal: Property and Vehicle Taxes		\$1,393,277
Land Transfer Tax	\$ 415,000	
Local Option Sales Tax	\$ 450,466	
Occupancy Tax	\$ 390,000	

Other Intergovernmental Revenues	\$ 173,100	
Building Permits	\$ 225,000	
Other Land Use Fees	\$ 41,200	
Appropriated Fund Balance	\$ 312,359	
Other Revenues	\$ 107,925	
Subtotal: Other Revenues		<u>\$2,115,050</u>
Total General Fund Revenues		\$3,508,327

Section II. Cemetery Fund

There is hereby created and the following amounts are appropriated within the Town of Southern Shores Cemetery Fund for its activities for the fiscal year beginning July 1, 2005 and ending June 30, 2006. It is estimated that the following revenues will be available during the fiscal year beginning July 1, 2005 and ending June 30, 2006 to meet the appropriations described:

Appropriations:		
Maintenance	\$ 7,080	
Perpetual Trust	<u>5,000</u>	
TOTAL	\$ 12,080	
Revenues		
Transfer - General Fund	\$ 6,360	
Cemetery Lot Fees	\$ 5,000	
Perpetual Care Interest	\$ 200	
Appropriate Undesignated Reserve	<u>\$ 520</u>	
TOTAL	\$ 12,080	

Section III. Capital Improvement Fund

The following amounts are appropriated within the Town of Southern Shores Capital Improvements Fund for its activities for the fiscal year beginning July 1, 2005 and ending June 30, 2006. It is estimated that the following revenues will be available during the fiscal year beginning July 1, 2005 and ending June 30, 2006 to meet the appropriations described:

Appropriations:		
Capital Improvement Plan	\$1,000,000	
Vehicle Replacement Plan	<u>\$ 126,500</u>	
TOTAL	\$1,126,500	
Revenues		
Transfer - General Fund	\$ 400,817	
Powell Bill Revenue	\$ 125,000	
Grant Revenue	\$ 530,000	
Appropriate Undesignated Reserves	<u>\$ 70,683</u>	
TOTAL	\$1,126,500	

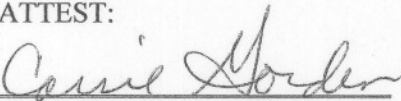
Section IV. There is hereby levied a property tax of seven (7) cents (\$0.07) on each one hundred dollars (\$100) valuation of taxable property, as listed for taxes as of January 1, 2005, for the purpose of raising the revenue listed as "Property Taxes - Current Year" and "Vehicle Taxes - Current Year", as set forth in the foregoing estimates of revenue and in order to finance the foregoing appropriations. Such rate is based on an estimated total valuation of property of \$1,609,706,821

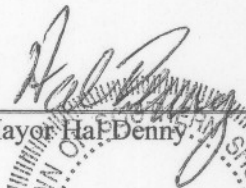
yielding property tax revenue of \$1,122,288 at an estimated rate of collection of 99.6%, and an estimated motor vehicle valuation of \$27,850,600 vehicle property tax revenue of \$18,006 at an estimated collection rate of 92.36%.


Section V. In addition to the property tax levy in Section III, there is hereby levied a tax of one and one-half (1.5) cents (\$0.015) on each one hundred dollars (\$100) valuation of taxable property, as listed for taxes as of January 1, 2005, for the purpose of raising the revenue listed as "Property Taxes - Current Year" and "Vehicle Taxes - Current Year", as set forth in the foregoing estimates of revenue and in order to finance the foregoing appropriations. Such rate is based on an estimated total valuation of property of \$1,609,706,821 yielding real estate property tax revenue of \$240,490 at an estimated rate of collection of 99.6%, and an estimated motor vehicle valuation of \$27,850,600 vehicle property tax revenue of \$3,858 at an estimated collection rate of 92.36%.

ADOPTED the 24th day of June 2005.

ATTEST:


Carrie Gordin, Town Clerk


Mayor Hal Denny


TOWN OF SEABOARD
SEAL

Date Introduced: 05/27/2005
Date(s) Published: 05/31/2005
Public Hearing Date(s): 06/07/2005

Vote: 3 Ayes 2 Nays